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 18 Attorneys for Defendant,  
 19 Damien Sexton

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 22 UNITED STATES DISTRICT COURT  
 23 NORTHERN DISTRICT OF CALIFORNIA

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 28 UNITED STATES OF AMERICA, ) Case No. CR-07-0742 (EDL)  
 vs. Plaintiff, ) [PROPOSED] ORDER FOR  
 ) ISSUANCE OF PRETRIAL  
 ) SUBPOENA DUCES TECUM  
 DAMIEN SEXTON, )  
 Defendant. )  
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On March 19, 2008 Defendant Damien Sexton, by and through counsel, filed an *ex parte* application for the issuance of a pretrial subpoena *duces tecum*, directing the custodian of records for United Airlines to produce specified documents and information. The defendant provided notice to the Government of this application. On March 25, 2008, the parties appeared in Court for hearing on this request. The Court finds that the defendant has demonstrated a need for the information sought, pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure, but that

1 the request as framed by the defendant is overbroad. Accordingly, the Court grants defendant's  
 2 motion that a subpoena *duces tecum* issue to United Airlines as follows:

3 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that a subpoena *duces tecum*  
 4 issued pursuant to Fed Crim P 17(c), directing the custodian of records for United Airlines to  
 5 produce a partial flight manifest for United Airlines flight 189 for the date of March 21, 2007,  
 6 which flew traveling from Philadelphia (PHL) to San Francisco (SFO), identifying, by name and  
 7 seat number, the passengers occupying rows 13 – 23, inclusive.

8 IT IS FURTHER ORDERED that the Rule 17(c) subpoena to United Airlines direct the  
 9 airline to include, with its production, a seating chart showing the passengers seated in rows 13 –  
 10 23 by name and seat number. The subpoena shall direct the airline to include, in its production,  
 11 the addresses and telephone numbers (contact information) of the passengers identified pursuant  
 12 to this subpoena.

13 IT IS FURTHER ORDERED that the names, addresses, and telephone numbers of  
 14 passengers (contact information) included in United Airlines production shall be disclosed to the  
 15 parties, if the Court finds such disclosure appropriate, subject to the same conditions and  
 16 limitations as the protective order entered by the Court on March 14, 2008, namely, that the  
 17 information produced pursuant to the subpoena is for the use of counsel only (or for any  
 18 investigators used by the prosecution and the defense to contact and interview witnesses and  
 19 cannot be provided to anyone else, and, in particular, to the defendant herein). IT IS ORDERED  
 20 that any person receiving the information produced pursuant to this subpoena will acknowledge  
 21 in writing that they have reviewed this protective order, understand its terms, and will not  
 22 disclose the witness contact information to anyone without prior approval of the Court.

23  
 24 IT IS SO ORDERED.

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 26 Dated: March 28, 2008

